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HIGH COURT OF CHHATTISGARH AT BILASPUR

S.B. : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION No. 1844 of 2007

PETITIONER : Baidhnath Nag S/o Devi Singh aged about 30 years, Occupation-Kotwar, R/o Village Kohakapal, Tahsil – Jagdalpur, District – Jagdalpur (Bastar) (C.G.)

VERSUS

RESPONDENTS :

1. The Board of Revenue Bilaspur, Through theChairman, Circuit Court Jagdalpur (C.G.)
2. The Collector, Jagdalpur, District-Jagdalpur (C.G.).
3. The Additional Collector, Jagdalpur, District-Jagdalpur (C.G.)
4. The Sub Divisional Officer, Jagdalpur, District-Jagalpur (C.G.)
5. The Tahsildar, Jagdalpur, District-Jagdalpur (C.G.)
6. Tulsi Ram S/o Rajibo Mehra aged about 35 years,
7. Smt. Padma Bai W/o –Jeevnath aged about 55 years,
8. Sonadhar s/o-Mala Mehra aged about 40 years.
9. Phool Chand S/o Khogeshwar Mehra aged about 24 years.

Res. No. 6 to 9 all R/o-Village-Kohakapal, Tahsil-Jagdalpur, District Jagdalpur (Bastar) (C.G.)

Present: Shri F.S.Khare, Advocate for the petitioner.
Shri Arvind Dubey, Panel Lawyer for the State/respondents 1 to 5.

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ORDER
(Passed on 29th March, 2007)

1. This is a petition under Article 227 of the Constitution of India wherein the order dated 19.01.2007 (Annexure P/8) passed by the Board of Revenue against the order dated 19.06.2006 (Annexure P/6) passed by the Additional Collector, Jagdalpur, is impugned.

2. Learned counsel appearing for the petitioner submits that the order dated 19.01.2007 passed by the Board of Revenue, Bilaspur is perverse, contrary to the facts and not in consonance with the provisions of law. The learned counsel further submits that one Shri Jeevnath, husband of Smt. Padma Bai was working as Kotwar in village Kohkapal, Tehsil Jagdalpur till he resigned from the post in the year 2000. The Naib Tehsildar, Bakawand by public announcement made on 8.3.2000 invited applications. The said Naib Tehsildar registered revenue case no. 08/A-56/99-2000 and heard the parties and examined their witnesses on 09.05.2995. The Gram Panchayat proposed the name of respondent no. 8 Sonadhar Mehra vide its resolution dated 18.6.2000 for appointment on the post of Kotwar. The Naib Tehsildar Bakawand, appointed Tulsi Ram, the respondent No. 6 as Kotwar keeping in view the education as the petitioner was 9th Class passed, Smt. Padma and Sonadhar were illiterate, Foolchand was under age and against the petitioner, a criminal case under section 107-116 of the Code of Criminal Procedure was pending consideration. Accordingly, the

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respondent no. 6 was found most suitable for the post. Vide order dated 9.5.2001, the respondent no. 6 was appointed as Kotwar.

3. The respondent no. 8 preferred an appeal before the Additional Collector Jagdalpur. The Additional Collector, vide order dated 28.8.2002, allowed the appeal partly and directed the village Panchayat, Kohkapal to send new proposal for appointment on the post of Kotwar. The Gram Panchayat, Kohkapal in its resolution dated 19.04.2003 after having considered the case, recommended the name of respondent no. 6 for appointment as Kotwar.

4. The Sub Divisional Officer (Revenue) Jagdalpur by order dated 15.7.2005 dismissed the appeal filed by the petitioner, respondent no. 7 and respondent no. 8, separately.

5. The Additional Collector, by his order dated 15.7.2005 allowed the appeal filed by the petitioner and directed to appoint the petitioner as Kotwar of Village Kohkapal.

6. Being aggrieved, the respondent no. 6 filed a revision before the Board of Revenue in Revenue Case No. R.N./01/R/A-56/596/2006. The Board of Revenue, after having heard all the parties came to the conclusion that the appointment of the Kotwar is within the jurisdiction of Tehsildar/Additional Tehsildar and Naib Tahsildar. The Additional Collector has no jurisdiction to appoint the petitioner as Kotwar. The name of the respondent no. 6 was recommended by the Gram Panchayat,Kohkapal. Thus, under Rule 4(1) of the Rules Regarding Appointment, Punishment And

Removal of Kotwars and Their Duties, the appellate authorities can consider only the validity of the appointment of Tulsi Ram as per recommendation made by the Gram Panchayat to the extent asto whether the appointment was legal and proper. Accordingly, the order dated 19.06.2006 (Annexure P/6) passed by the Additional Collector, was set aside. The order dated 19.05.2003 (Annexure P/4) passed by the Tehsildar Jagdalpur, confirmed by order dated 15.7.2005 (Annexure P/5) passed by the Sub Divisional Officer (Revenue), Jagdalpur were maintained.

7. On perusal of the documents and having carefully gone through the provisions of law, the analysis made and the order as a result thereof passed by the Board of Revenue is unexceptionable, and needs no interference. Thus, this petition filed under the supervisory jurisdiction of Article 227 of the Constitution of India is dismissed.

8. Consequently, I.A. No. 1, application for interim relief and stay also stands disposed of.

Sd/-
Satish K. Agnihotri
Judge

Amit